99TH CONGRESS
1st Session

SENATE

TREATY DOC.
99-3

TAX CONVENTION WITH BARBADOS

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND BARBADOS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, TOGETHER WITH AN EXCHANGE OF NOTES, SIGNED AT BRIDGETOWN ON DECEMBER 31, 1984

FEBRUARY 25, 1985.—Convention was read the first time, and together with the accompanying papers, referred to the Committee on Foreign Relations and ordered to be printed for the use of the Senate

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U.S. GOVERNMENT PRINTING OFFICE

51-118 O

WASHINGTON : 1985

S385-3

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *February 25, 1985.*

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention between the United States of America and Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income ("the Convention"), together with an exchange of notes, signed at Bridgetown on December 31, 1984. I also transmit the report of the Department of State on the Convention.

The Convention, in general, follows the pattern of other United States income tax treaties and the current draft United States Model Income Tax Convention, but deviates from the model in certain respects to reflect Barbados' status as a developing country.

Among the principal features of the Convention are provisions to prevent third-country residents from taking unwarranted advantage of the treaty. The Convention also establishes maximum rates of tax at source on payments of dividends, interest, and royalties.

The exchange of notes indicates the willingness of the United States Government to reopen discussions, should circumstances change, which would permit the inclusion of additional provisions to create incentives to promote the flow of United States investment to Barbados.

I recommend that the Senate give early and favorable consideration to this matter, and give advice and consent to ratification of the Convention, together with the related exchange of notes.

RONALD REAGAN.

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, February 11, 1985.

The PRESIDENT,
The White House.

THE PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, the Convention between the United States of America and Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income (referred to hereafter as "the Convention"), together with an exchange of notes, signed at Bridgetown on December 31, 1984.

The Convention is the first income tax treaty to be negotiated between the United States and Barbados. In general, it follows the pattern of other recent United States income tax treaties and the current draft United States Model Income Tax Convention. The Convention deviates from thses models, however, in several significant respects to reflect Barbados' status as a developing country.

The Convention establishes maximum rates of tax at source on payments of dividends, interest and royalties. It provides that the tax in the source country on dividends paid to a resident of the other country may not exceed 15 percent in the case of portfolio dividends, and 5 percent in the case of direct investment dividends. The Convention also provides for a maximum 12.5 percent rate of tax on interest at source. However, interest received, guaranteed or insured by the Government of a Contracting State is exempt from tax in the country of source. Royalties are also subject to a maximum tax rate of 12.5 percent.

The Convention contains rules found in most United States tax treaties regarding the taxation of business profits, personal service income, transportation income, real property income and capital gains, and the granting of relief from double taxation. In recognition of the fact that Barbados is a developing country, the Convention provides somewhat broader rights for the source country to tax business profits and certain types of personal service income than is generally true for United States tax treaties with developed countries.

Also provided are the normal rules necessary for administering the Convention, including rules for the resolution of disputes under the treaty and the exchange of information. The exchange of information article provides, among other things, that bank information as well as other information with respect to Barbadian and third-country residents will be made available to the United States competent authority (Treasury). This is consistent with the more specific provisions of the agreement with Barbados on the exchange of

tax information under the Caribbean Basin Economic Recovery Act of 1983, which entered into force on December 3, 1984.

The Convention reflects the views of the Senate expressed in its consideration of other recent United States tax treaties. For example, the rules for the taxation of gains on real property conform to the provisions of the General Accounting Office to obtain access to certain tax information exchanged under the treaty which is relevant to its function of overseeing the administration of United States tax laws.

The Convention contains provisions designed to prevent third-country residents from taking unwarranted advantage of the treaty by routing income through an entity established for that purpose in one of the Contracting States. Because Barbados has very favorable tax law provisions which apply in its "offshore sector" to certain foreign owned entities established in Barbados and doing business outside of that country, it is very important that abuse of the Convention be prevented. The Convention provides that benefits granted under the Convention to an item of income by one of the Contracting States will not be granted if (1) less than 50 percent of the beneficial interest in the person receiving the income is owned by residents of Barbados or the United States, or by United States citizens, or (2) a substantial part of the income of the person receiving the income is used to meet liabilities to persons other than residents of a Contracting State or United States citizens. Even if a person comes within either of the conditions specified above, however, treaty benefits will be granted if the income is derived in connection with, or is incidental to, an active business conducted in a Contracting State, other than the business of managing investments. The effect of these rules with respect to the Barbadian offshore sector is to deny treaty benefits with respect to income from traditional banking and insurance business to Barbadian offshore companies which are investment companies, banks or insurance companies. Other offshore companies, as well as other Barbadian residents owned by third country residents, will have to meet the active business test described above in order to receive treaty benefits.

During the course of the negotiations, the Barbados delegation expressed strong interest in including provisions which would give an incentive for United States investment in Barbados and which would treat gifts by United States persons to Barbadian charities as charitable contributions. The exchange of notes accompanying the Convention provides assurances that if United States treaty policies with respect to these two matters should change so as to permit the United States to agree to the provisions sought by Barbados, the United States would reopen negotiations with a view to amending the treaty appropriately.

The Convention will enter into force upon the exchange of instruments of ratification. The provisions of the Convention will have effect for the United States as follows:

(i) in respect of tax withheld at the source for amounts paid or credited on or after the first day of the second month following the date on which this Convention enters into force;

(ii) in respect of other taxes, for taxable years beginning on or after January 1, 1984.

The Convention will remain in effect indefinitely unless terminated by one of the Contracting States. Either Contracting State may, on or before June 30 in any calendar year after the year 1988, give notice of termination to the other Contracting State.

A technical memorandum explaining in detail the provisions of the Convention is being prepared by the Department of the Treasury and will be submitted separately to the Senate Committee on Foreign Relations.

The Department of the Treasury, with the cooperation of the Department of State, was primarily responsible for the negotiation of this Convention. It has the approval of both Departments.

Respectfully submitted.

GEORGE P. SHULTZ.

Convention Between Barbados and the United States of America for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion With Respect to Taxes on Income

Barbados and the United States of America, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Article 1

GENERAL SCOPE

1. This Convention shall apply to persons who are residents of one or both of the Contracting States, except as otherwise provided in the Convention.

2. The Convention shall not restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded.

(a) by the laws of either Contracting State; or

(b) by any other agreement between the Contracting States.

3. Notwithstanding any provision of the Convention except paragraph 4, a Contracting State may tax its residents (as determined under Article 4 (Residence)), and by reason of citizenship may tax its citizens, as if the Convention had not come into effect. For this purpose, the term "citizen" shall include a former citizen whose loss of citizenship had as one of its principal purposes the avoidance of tax, but only for a period of 10 years following such loss.

4. The provisions of paragraph 3 shall not affect

(a) the benefits conferred by a Contracting State under paragraph 2 of Article 9 (Associated Enterprises), under paragraphs 1b) and 4 of Article 18 (Pensions, Annuities, Alimony, and Child Support), and under Articles 23 (Relief From Double Taxation), 24 (Non-Discrimination), and 25 (Mutual Agreement Procedure); and

(b) the benefits conferred by a Contracting State under Articles 19 (Government Service), 20 (Students and Apprentices), and 27, (Diplomatic Agents and Consular Officers), upon individuals who are neither citizens of, nor have immigrant status in, that State.

Article 2

TAXES COVERED

1. The existing taxes to which this Convention shall apply are

(a) in the United States: the Federal income taxes imposed by the Internal Revenue Code (but excluding the accumulated earnings tax, except as provided in paragraph 5 of Article 10,

the personal holding company tax, and social security taxes), and the excise taxes imposed on insurance premiums paid to foreign insurers and with respect to private foundations. The Convention shall, however, apply to the excise taxes imposed on insurance premiums paid to foreign insurers only to the extent that the risks covered by such premiums are not reinsured with a person not entitled to the benefits of this or any other convention which applies to these taxes;

(b) in Barbados: Income Tax (including premium income tax), Corporation Tax (including the tax on branch profits), and Petroleum Winning Operations Tax.

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting State shall notify each other of any significant changes which have been made in their respective taxation laws and of any official published material concerning the application of the Convention, including explanations, regulations, rulings, or judicial decisions.

ARTICLE 3

GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

(a)(i) The term "United States" means the United States of America. When used in a geographic sense it means the states thereof, the District of Columbia, the territorial waters of the United States, and any area beyond the territorial waters which, in accordance with international law and the laws of the United States is, or may hereafter be, an area within which the rights of the United States with respect to natural resources may be exercised. The term does not include Puerto Rico, the Virgin Islands, Guam or any other United States possession or territory;

(ii) the term "Barbados" means the island of Barbados and the territorial waters thereof, including any area outside such territorial waters which in accordance with international law and the laws of Barbados is an area within which the rights of Barbados with respect to the sea-bed and sub-soil and their natural resources may be exercised;

(b) the term "person" includes an individual, an estate, a trust, a company, a partnership and any other body of persons;

(c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(e) the term "competent authority" means:

(i) in the case of the United States of America, the Secretary of the Treasury or his delegate;

(ii) in the case of Barbados, the Minister of Finance and Planning or his authorized representative;

(f) the term "national" means:

(i) in relation to the United States

(a) any individual who is a citizen of the United States;

(b) any company, association or other entity deriving its status as such from the laws of the United States or any political subdivision thereof;

(ii) in relation to Barbados

(a) any individual who is a citizen of Barbados;

(b) any company, association or other entity deriving its status as such from the laws of Barbados;

(g) the term "international traffic" means any transport by a ship or aircraft, except when such transport is solely between places in the other Contracting State.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires or the competent authorities agree to a common meaning pursuant to the provisons of Article 25 (Mutual Agreement Procedure), have the meaning which it has under the laws of that State concerning the taxes to which the Convention applies.

ARTICLE 4

RESIDENCE

1. For the purposes of this Convention:

(a) The term "resident of Barbados" means:

(i) any person, other than a company, resident in Barbados for the purposes of Barbados tax, but in the case of a partnership, estate or trust, only to the extent the income derived by such partnership, estate or trust is subject to Barbados tax as the income of a resident either in its hands or in the hands of its partners or beneficiaries; and

(ii) a company whose business is managed and controlled in Barbados.

(b) the term "resident of the United States" means:

(i) any person, other than a company, resident in the United States for the purpose of United States tax; but in the case of a partnership, estate or trust, only to the extent that the income derived by such partnership, estate or trust is subject to United States tax as the income of a resident, either in its hands or in the hands of its partners or beneficiaries; and

(ii) a company created under the laws of the United States or a political subdivision thereof.

2. Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed

to be a resident of the State with which his personal and economic relations are closer (center of vital interests);

(b) If the State in which he has his center of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a company is a resident of both Contracting States, then if it is created under the laws of a Contracting State or a political subdivision thereof, it shall be deemed to be a resident of that State.

4. Where by reason of the provisions of paragraph 1 a person other than an individual or a company is a resident of both Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement and determine the mode of application of the Convention to such person.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, except as otherwise specified in this Article, the term "permanent establishment" means a regular place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a store or premises used as a sales outlet;

(g) a warehouse, in relation to a person providing storage facilities for others;

(h) a mine, an oil or gas well, a quarry, or any other place of extraction of natural resources;

(i) a building site or construction, assembly or installation, or drilling rig or ship used for the exploration or development of natural resources within a Contracting State, but only if such site, or activity continues within the State for a period or periods aggregating more than 183 days in any twelve month period (including the period of any supervisory activity connected therewith), provided that a permanent establishment shall not exist in any taxable year in which such site or activity continues within that State for a period or periods aggregating less than 30 days in that taxable year;

(j) a dredging project within a Contracting State, but only where such project continues within the State for a period or periods aggregating more than 120 days in any twelve month

period (including the period of any supervisory activity connected therewith), provided that a permanent establishment shall not exist in any taxable year in which such site, project or activity continues within that State for a period or periods aggregating less than 30 days in that taxable year;

(k) the furnishing of services, including consultancy, management, technical and supervisory services, within a Contracting State by an enterprise through employees or other persons, but only if

(i) activities of that nature continue within the State for a period or periods aggregating more than 90 days in a twelve-month period, provided that a permanent establishment shall not exist in any taxable year in which such services are rendered in that State for a period or periods aggregating less than 30 days in the taxable year; or

(ii) the services are performed within the State for an associated enterprise (within the meaning of Article 9 (Associated Enterprises);

(l) the maintenance of substantial equipment or machinery within a Contracting State but only if such equipment or machinery is maintained within that State for a period of more than 120 consecutive days, provided that a permanent establishment shall not exist in any taxable year in which such equipment or machinery is maintained within that State for a period or periods aggregating less than 30 days in that taxable year.

3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include any one or more of the following:

(a) the use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to the enterprise, other than goods or merchandise held for sale by such enterprise in a store or premises used as a sales outlet;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery, other than goods or merchandise held for sale by such enterprise in a store or premises used as a sales outlet;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a regular place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

(e) the maintenance of a regular place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. If an enterprise of a Contracting State does not have a permanent establishment in the other Contracting State under paragraphs 1, 2, and 3, but goods and merchandise are either:

(a) subjected to processing in that other Contracting State by another person (whether or not purchased in that other Contracting State); or

(b) purchased in that other Contracting State (and such goods or merchandise are not subjected to processing outside that other Contracting State)

then such enterprise shall be considered to have a permanent establishment in that other Contracting State to the extent that all or part of such goods or merchandise is sold by or on behalf of such enterprise for use, consumption, or disposition in that other Contracting State.

5. Notwithstanding the provisions of paragraphs 1 and 2, a person (other than an agent of an independent status to whom paragraph 6 applies) acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State if:

(a) he has and habitually exercises in the first-mentioned State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to those mentioned in paragraph 3 which, if exercised through a regular place of business, would not make that regular place of business a permanent establishment under the provisions of that paragraph (subject to the provisions of paragraph 4); or

(b) he habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise, and additional activities conducted in that State on behalf of the enterprise have contributed to the sale of the goods or merchandise.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent, or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such persons are devoted substantially on behalf of that enterprise, he shall not be considered an agent of independent status within the meaning of this paragraph if the transactions between the agent and the enterprise were not made under arm's length conditions.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM REAL PROPERTY (IMMOVABLE PROPERTY)

1. Income derived by a resident of a Contracting State from real property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "real property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of real property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from real property of an enterprise and to income from real property used for the performance of independent personal services.

ARTICLE 7

BUSINESS PROFITS

1. The business profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on or has carried on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried on business as aforesaid, the business profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:

(a) that permanent establishment;

(b) sales in the other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or

(c) other business activities carried on in the other State of the same or similar kind as those affected through that permanent establishment.

2. Where a resident of one of the Contracting States has a permanent establishment in the other Contracting State, there shall in each Contracting State be attributed to the permanent establishment business profits which would reasonably be expected to have been derived by it, if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions.

3. In determining the business profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including a reasonable allocation of executive and general administrative expenses, research and development expenses, interest, and other expenses incurred for the purposes of the enterprise as a whole (or the part thereof which includes the permanent establishment), whether incurred in the State in which the permanent establishment is situated or elsewhere.

4. No business profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. Insofar as it has been customary in a Contracting State to determine the business profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the business profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

6. For the purposes of the preceding paragraphs, the business profits to be attributed to a permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where business profits include items of income which are dealt with separately in other Articles of this Agreement, then, the provisions of those Articles shall not be affected by the provisons of this Article, unless otherwise expressly provided by those Articles.

8. For the purposes of this Convention, the term "business profits" means income derived from any trade or business, including the rental of tangible personal property.

ARTICLE 8

SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include profits derived from the rental of ships or aircraft if such ships or aircraft are operated in international traffic by the lessee or if such rental profits are incidental to other profits described in paragraph 1.

3. Profits of an enterprise of a Contracting State from the use, maintenance, or rental of containers (including trailers, barges, and related equipment for the transport of containers) used in international traffic shall be taxable only in that State.

4. The provisions of paragraphs 1 and 3 shall apply to profits from participation in a pool, a joint business, or an international operating agency.

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or

(b) the same persons participate directly or indirectly in the management, control, or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which, but for those conditions would have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State, and taxes accordingly, profits on which an enterprise of the other Contracting State has been charged to tax in that other State, and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if

the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be paid to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

3. The provisions of paragraph 1 shall not limit any provisions of the law of either Contracting State which permit the distribution, apportionment, or allocation of income, deductions, credits, or allowances between persons, whether or not residents of a Contracting State, owned or controlled directly or indirectly by the same interests when necessary in order to prevent evasion of taxes or clearly to reflect the income of any of such persons.

ARTICLE 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed

(a) 5 percent of the gross amount of the dividends if the beneficial owner is a company which owns at least 10 percent of the voting stock of the company paying the dividends;

(b) 15 percent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraph 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State, of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a regular base situated therein, and the dividends are attributable to such permanent establishment or regular base. In such case the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.

5. The income of a Barbados company derived from the manufacture in Barbados of approved products under the fiscal incentives legislation of Barbados (as in effect on the date of signature of the Convention or as the Competent Authorities may agree pursuant to

Article 25 (Mutual Agreement Procedure)) shall not be subject to the United States accumulated earnings tax. In addition, a company which is a resident of Barbados shall be exempt from United States accumulated earnings tax if individuals (other than United States citizens) who are residents of Barbados control directly or indirectly throughout the last half of the taxable year more than 50 percent of the entire voting power of the company.

6. A Contracting State may not impose any tax on dividends paid by a company which is not a resident of that State, except insofar as:

(a) the dividends are paid to a resident of that State,

(b) the dividends are attributable to a permanent establishment or a regular basis situated in that State; or

(c) the dividends are paid out of profits attributable to one or more permanent establishments of such company in that State, provided that the gross income of the company attributable to such permanent establishment constituted at least 50 percent of the company's gross income from all sources.

Where subparagraph (c) applies and subparagraphs (a) and (b) do not apply, the tax shall be subject to the limitations of paragraph 2.

ARTICLE 11

INTEREST

1. Where interest is derived from sources within a Contracting State and beneficially owned by a resident of the other Contracting State, the rate of tax imposed thereon in the first-mentioned State shall not exceed 12.5 percent of the gross amount of the interest. Notwithstanding the preceding sentence, interest derived from sources within a Contracting State, beneficially owned by a resident of the other Contracting State, and paid in respect of a bond, debenture or other similar obligation issued, guaranteed or insured by the government of that Contracting State or by a political subdivision, local authority or instrumentality thereof shall be taxable only in that other State.

2. The term "interest" as used in the Convention means income from loans of every kind whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities, and income from bonds or debentures, including premiums or prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purposes of this Convention.

3. The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of a Contracting State, carries on in the other Contracting State in which the interest arises a business through a permanent establishment situated therein, or performs in that other State independent personal services from a regular base situated therein, and the indebtedness in respect of which the interest is paid is effectively connected with that permanent establishment or regular base. In such a case, the provisions

of Article 7 (Business Profits) or Article 14 (Independent Personal Services) as the case may be, shall apply.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest, having regard to the indebtedness on which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed by the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 12.5 percent of the gross amount of such royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payment of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic, or scientific work including royalties in respect of motion pictures and works on film, tape or other means or reproduction for use in connection with radio or television, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial, or scientific experience. The term royalties also includes gains derived from the alienation of any such right or property which are contingent on the productivity, use, or disposition thereof.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State, in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a regular base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or regular base. In such case the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right, or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case the excess part of the payments shall remain taxable according to

the laws of each Contracting State, due regard being had to the other provisions of the Convention.

6. Royalties shall be deemed to be derived from sources within a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or regular base in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by the permanent establishment or regular base, then such royalties shall be deemed to be derived from sources within the Contracting State in which the permanent establishment or regular base is situated. Notwithstanding the preceding provisions of this paragraph, where the royalties are paid for the use of or the right to use a right or property within a Contracting State, the royalties shall be deemed to arise in that State.

ARTICLE 13

GAINS

1. Gains derived by a resident of a Contracting State from the alienation of real property situated in the other Contracting State may be taxed in that other State.

2. For the purposes of this Article:

(a) the term "real property situated in the other Contracting State", where the United States is that other Contracting State, includes a United States real property interest, and real property referred to in Article 6 which is situated in the United States; and

(b) the term "real property situated in the other Contracting State", where Barbados is that other Contracting State, shall have the meaning which it has under the Laws in force from time to time in Barbados and, without limiting the foregoing, includes:

(i) real property referred to in Article 6;

(ii) shares or comparable interests in a company, the assets of which consist wholly or principally of real property situated in Barbados; and

(iii) an interest in a partnership, trust or estate, the assets of which consist wholly or principally of real property situated in Barbados.

3. Gains from the alienation of personal property which are attributable to a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or which are attributable to a regular base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, and gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or such a regular base, may be taxed in that other State.

4. Gains derived by an enterprise of a Contracting State from the alienation of ships, aircraft, or containers operated in international traffic shall be taxable only in that State.

5. Gains described in Article 12 (Royalties) shall be taxable only in accordance with the provisions of Article 12.

6. Gains from the alienation of any property other than property referred to in paragraphs 1 through 5 shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity may be taxed by that Contracting State. Except as provided in paragraph 2, such income shall be exempt from tax by the other Contracting State.

2. Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity in the other Contracting State may be taxed by that other Contracting State, if:

(a) he has a regular base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that regular base may be taxed in that other Contracting State;

(b) he is present in that other Contracting State for a period or periods aggregating 90 days or more in the taxable year; or

(c) the net income derived in the taxable year from residents of that other Contracting State for the performance of such services in the other Contracting State exceeds 5,000 United States dollars or its equivalent in Barbados currency.

ARTICLE 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Article 16 (Directors' Fees), 18 (Pensions, Annuity, Alimony and Child Support), and 19 (Government Service), salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the remuneration earned in the other Contracting State in the calendar year concerned does not exceed 5,000 United States dollars or its equivalent in Barbados currency;

(b) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned;

(c) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(d) such remuneration is not borne by a permanent establishment or regular base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of a Contracting State in respect of an employment as a member of the regular complement of a ship or aircraft operated in international traffic may be taxed only in that State.

ARTICLE 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State for services rendered in the other Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

ARTICLE 17

ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services), income derived by a resident of a Contracting State as a public entertainer, such as a theatre, motion picture, radio, or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State, except where the amount of the gross receipts derived by such entertainer or athlete, not including expenses reimbursed to him or borne on his behalf, from such activities does not exceed 250 United States dollars or its equivalent in Barbadian currency per day, or 4,000 United States dollars or its equivalent in Barbadian currency in the taxable year.

2. Where income in respect of personal activities of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7 (Business Profits), 14 (Independent Personal Services), and 15 (Dependent Personal Services) be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised, unless it is established that neither the entertainer or athlete nor persons related thereto participate directly or indirectly in the profits of that other person in any manner, including the receipt of deferred remuneration, bonuses, fees, dividends, partnership distributions, or other distributions.

3. The provisions of paragraphs 1 and 2 shall not apply

(a) to income derived from activities performed in a Contracting State by entertainers or athletes if the visit to that Contracting State is substantially supported by public funds of the other Contracting State, including any political subdivision, local authority or statutory body thereof;

(b) to a non-profit organization no part of the income of which was payable to, or otherwise inures to the benefit of,

any private proprietor, member or shareholder thereof, or other individual; or

(c) to an entertainer or athlete in respect of services provided to an organization referred to in subparagraph (b).

ARTICLE 18

PENSIONS, ANNUITIES, ALIMONY, AND CHILD SUPPORT

1. Subject to the provisions of Article 19 (Government Service)

(a) pensions and other similar remuneration derived and beneficially owned by a resident of a Contracting State in consideration of past employment shall be taxable only in that State; and

(b) social security benefits and other public pensions paid by a Contracting State to a resident of the other Contracting State or a citizen of the United States shall be taxable only in the first-mentioned State.

2. Annuities derived and beneficially owned by a resident of a Contracting State shall be taxable only in that State. The term "annuities" as used in this paragraph means a stated sum paid periodically at stated times during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

3. Alimony paid to a resident of a Contracting State shall be taxable only in that State. The term "alimony" as used in this paragraph means periodic payments made pursuant to a written separation agreement or a decree of divorce, separate maintenance, or compulsory support, which payments are taxable to the recipient under the law of the State of which he is a resident.

4. Periodic payments for the support of a minor child made pursuant to a written separation agreement or a decree of divorce, separate maintenance, or compulsory support, paid by a resident of a Contracting State to a resident of the other Contracting State, shall be taxable only in the first-mentioned State.

ARTICLE 19

GOVERNMENT SERVICE

Remuneration, including a pension, paid from the public funds of a Contracting State or a political subdivision or local authority thereof to a citizen of that State in respect of services rendered in the discharge of functions of a governmental nature shall be taxable only in that State. However, the provisions of Article 14 (Independent Personal Services), Article 15 (Dependent Personal Services) or Article 17 (Articles and Athletes), as the case may be, shall apply, and the preceding sentence shall not apply, to remuneration paid in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or local authority thereof.

ARTICLE 20

STUDENTS AND APPRENTICES

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State who is present in the first-mentioned State for the purpose of his full-time education or training receives for the purpose of his maintenance, education, or training shall not be taxed in that State, provided that such payments arise outside that State.

2. Notwithstanding Article 4 (Residence), an individual to whom paragraph 1 applies and who immediately before visiting or becoming temporarily present in a Contracting State was a resident of the other Contracting State may elect as an alternative to the provisions of that paragraph to be treated for all tax purposes of the first-mentioned State including this Convention, as a resident of that State. The election shall apply to all periods during the taxable year of the election and subsequent taxable years during which the individual qualifies under paragraph 1 and may not be revoked except with the consent of the competent authority of that first-mentioned State.

ARTICLE 21

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 (Income from Real Property (Immovable Property)), if the beneficial owner of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a regular base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or regular base. In such case the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in that other Contracting State may be taxed in that other State.

ARTICLE 22

LIMITATION ON BENEFITS

1. A person which is a resident of a Contracting State and which derives income from sources within the other Contracting State shall not be entitled, in that other Contracting State, to the benefits of Article 6 (Income from Real Property (Immovable Property)) through Article 23 (Relief from Double Taxation) if:

(a) 50 percent or less of the beneficial interest in such person (or in the case of a company, 50 percent or less of the number of shares of each class of the company's shares) is owned, directly or indirectly, by any combination of one or more individual residents of a Contracting State or citizens of the United States; or

(b) the income of such person is used in substantial part, directly or indirectly, to meet liabilities (including liabilities for interest or royalties) to persons who are residents of a State other than a Contracting State, or who are not citizens of the United States.

2. The provisions of paragraph 1 shall not apply if the income derived from the other Contracting State is derived in connection with, or is incidental to, the active conduct by such person of a trade or business in the first-mentioned Contracting State (other than the business of making or managing investments). The preceding sentence shall not apply with respect to a person engaged in the business of banking or insurance in a Contracting State, if the income of such person is subject to tax in the Contracting State in which it is resident at a rate of tax which is substantially below the rate of tax generally applicable to business income in that State. Notwithstanding the preceding sentence, the income of such a bank which is not derived from the conduct of a banking business (including but not limited to income attributable to the taking of deposits and making of loans, managing of investments and performance of trust or other services as fiduciary), shall be subject to the provisions of the first sentence of this paragraph.

3. The provisions of paragraph 1 shall not apply if the person deriving the income is a company which is a resident of a Contracting State in whose principal class of shares there is a substantial and regular trading on a recognized stock exchange. For purposes of the preceding sentence, the term "recognized stock exchange" means:

(a) The NASDAQ System owned by the National Association of Securities Dealers, Inc. and any stock exchange registered with the Securities and Exchange Commission as a national securities exchange for purposes of the Securities Exchange Act of 1934; and

(b) any other stock exchange agreed upon by the competent authorities of the Contracting States.

4. If one of the Contracting States proposes to deny benefits to a resident of the other Contracting State by reason of this Article, the competent authorities of the Contracting States shall, upon request of the competent authority of the other Contracting State, consult each other.

ARTICLE 23

RELIEF FROM DOUBLE TAXATION

1. In accordance with the provisions and subject to the limitations of the law of the United States (as it may be amended from time to time without changing the general principle hereof), the

United States shall allow to a resident or citizen of the United Stats as a credit against the United States tax on income:

(a) the income tax paid to Barbados by or on behalf of such citizen or resident; and

(b) in the case of a United States company owning at least 10 percent of the voting stock of a company which is a resident of Barbados and from which the United States company receives dividends, the income tax paid to Barbados by or on behalf of the distributing company with respect to the profits out of which the dividends are paid.

For the purposes of this paragraph, the taxes referred to in paragraphs 1(b) and 2 of Article 2 (Taxes Covered) shall be considered income taxes.

2. In accordance with the provisions and subject to the limitations of the law of Barbados (as it may be amended from time to time without changing the general principle hereof) Barbados shall allow to a resident of Barbados as a credit against the Barbados tax on income:

(a) the income tax paid to the United States by or on behalf of such resident; and

(b) in the case of a Barbados company owning at least 10 percent of the voting stock of a company which is a resident of the United States from which it received dividends the income tax paid to the United States by or on behalf of the distributing company with respect to the profits out of which the dividends are paid.

For the purposes of this paragraph, the taxes referred to in paragraphs 1(a) and 2 of Article 2 (Taxes Covered) shall be considered income taxes. Credit allowed solely by reasons of the preceding sentence, when added to otherwise allowable credits for taxes referred to in paragraphs 1(a) and 2 of Article 2, shall not in any taxable year exceed that proportion of the Barbados tax on income which taxable income arising in the United States bears to total taxable income.

3. For the purposes of allowing relief from double taxation pursuant to this Article, income shall be deemed to arise exclusively as follows:

(a) income derived by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention (other than solely by reason of citizenship in accordance with paragraph 3 of Article 1 (General Scope)) shall be deemed to arise in that other State;

(b) income derived by a resident of a Contracting State which may not be taxed in the other Contracting State in accordance with the Convention shall be deemed to arise in the first-mentioned State.

ARTICLE 24

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the tax-

ation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall apply to persons who are not residents of one or both of the Contracting States. However, for the purposes of United States tax, a United States national who is not a resident of the United States and a Barbados national who is not a resident of the United States are not in the same circumstances.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs, and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents. The provisions of this paragraph shall not be construed to prevent Barbados from applying its tax on branch profits, and its tax on the premium income of nonresident insurers or foreign insurance companies at the rates prescribed under the Income Tax Act, nor to prevent the United States from imposing an additional tax on the income of a permanent establishment maintained by a resident of Barbados in the United States.

3. Except where the provisions of paragraph 1 of Article 9 (Associated Enterprises), paragraph 6 of Article 11 (Interest), or paragraph 5 of Article 12 (Royalties) apply interest, royalties, and other disbursements paid by a resident of a Contracting State to a resident of the other Contracting State shall, for the purposes of determining the taxable profits of the first-mentioned resident, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a

satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits or other procedural limitations in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. In particular the competent authorities of the Contracting States may agree

(a) to the same attribution of income, deductions, credits, or allowances of an enterprise of a Contracting State to its permanent establishment situated in the other Contracting State;

(b) to the same allocation of income, deductions, credits, or allowances between persons;

(c) to the same characterization of particular items of income;

(d) to the same application of source rules with respect to particular items of income;

(e) to a common meaning of a term;

(f) to increases in any specific dollar amounts referred to in the Convention to reflect economic or monetary developments; and

(g) to the application of the provisions of domestic law regarding penalties, fines, and interest in a manner consistent with the purposes of the Convention.

They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such informatior as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is in accordance with this Convention, in particular for the prevention of fraud and evasion of such taxes. The exchange of information is not limited by Article 1 (General Scope). Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment, collection, or administration of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consulta-

tions, develop appropriate conditions, methods, and techniques concerning the matters respecting which such exchange shall be made, as well as exchanges of information regarding avoidance of tax where appropriate. Information shall not be disclosed to any third jurisdiction for any purpose without the consent of the Contracting State originally furnishing the information.

2. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall endeavour to obtain the information to which the request relates in the same manner and to the same extent as if the tax of the first-mentioned State were the tax of that other State and were being imposed by that other State. If specifically requested by the competent authority of the other Contracting State, the competent authority of the other Contracting State shall endeavour to provide information under this Article in the form of depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, accounts and writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of that other State with respect to its own taxes.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation—

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial, or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

4. For the purposes of this Article, the Convention shall apply:

(a) in the case of Barbados to the taxes covered by the Convention; and

(b) in the case of the United States to the

(i) Federal income taxes;

(ii) Federal taxes on self-employment income;

(iii) Federal taxes on transfers to avoid income tax;

(iv) Federal estate and gift taxes; and

(v) Federal excise taxes.

ARTICLE 27

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

ARTICLE 28

ENTRY INTO FORCE

1. This Convention shall be ratified and instruments of ratification shall be exchanged as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect

(a) in the United States:

(i) in respect of tax withheld at the source for amounts paid or credited on or after the first day of the second month following the date on which this Convention enters into force;

(ii) in respect of other taxes, for taxable years beginning on or after January 1, 1984.

(b) in Barbados:

(i) in respect of income tax and corporation tax for the income year beginning January 1, 1984;

(ii) in respect of petroleum winning operations tax for any accounting year beginning on or after January 1, 1984; and

(iii) in respect of tax on branch profits and tax on premium income of insurance companies for the income year beginning January 1, 1984.

ARTICLE 29

TERMINATION

1. This Agreement shall continue in effect indefinitely but either Contracting State may, on or before June 30 in any calendar year after the year 1988, give notice of termination to the other Contracting State and in such event this Agreement shall cease to have effect:

(a) in the United States:

(i) in respect of taxes withheld at source on amounts paid or credited to non-residents on or after the first day of January in the calendar year next following that in which the notice is given; and

(ii) in respect of other United States tax, for taxable years beginning on or after the first day of January in the calendar year following that in which the notice is given;

(b) in Barbados:

(i) in respect of of income tax, corporation tax, tax on branch profits and tax on premium income of insurance companies for the income year beginning the first day of January in the calendar year next following that in which such notice is given; and

(ii) in respect of the petroleum winning operations tax, for any accounting period beginning on or after the first day of January in the calendar year next following that in which such notice is given.

DONE at Bridgetown in duplicate, this 31st day of December, 1984.

KENNETH A. KURZE.

For the Government of the United States of America.

LOUIS R. TULL.

For the Government of Barbados.

EMBASSY OF THE UNITED STATES OF AMERICA,
Bridgetown, Barbados, December 31, 1984.

No. 1001.

Hon. LOUIS R. TULL, M.P.,
Minister of Foreign Affairs and Attorney-General, Barbados.

Excellency: I have the honor to refer to the Convention between the United States of America and Barbados for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed today. The following understandings were reached between the two Governments:

(1) In the process of negotiating this Convention, the delegation of Barbados emphasized the necessity of including in the Convention additional provisions which would create incentives to promote the flow of United States investment to Barbados.

The United States Delegation is not able to accept such a provision at this time. I wish, however to assure you that my Government realizes the importance your Government attaches to the increase of United States investment in Barbados. Should circumstances change, our Government would be prepared to reopen the discussions in order to reflect in this Convention provisions which would minimize the conflicts between the United States tax system and the incentives offered by the Government of Barbados to promote foreign investment in Barbados and which are consistent with the income tax policies of the United States, including tax covention policies, with respect to other developing countries.

(2) During the course of the negotiation of this Convention, the delegation of Barbados sought agreement to include in the Convention a provision which would treat as charitable contributions for tax purposes, gifts by a resident of one Contracting State to a charitable organization in the other.

The United States delegation cannot agree to such a provision at this time. I wish, however, to assure you that my Government appreciates the potential benefits of such a provision to the cultural and economic development of Barbados. If, in the future, United States policies in this regard should change, and the provision by the United States of such benefits by treaty to United States persons should become acceptable, the United States would be prepared to reopen discussions with a view to incorporating into the Convention such a provision.

I have the honor to propose to you that the present Note and your reply thereto constitute the agreement of our two Governments on these understandings.

Accept, Excellency, the assurances of my highest consideration.

KENNETH A. KURZE,
Chargé d'Affaires a.i.

MINISTRY OF FOREIGN AFFAIRS,
MARINE HOUSE,
Barbados, December 31, 1984.

No. 11/3-16 Vol. II.

Mr. KENNETH A. KURZE,
Chargé d'Affaires a.i., Embassy of the United States of America, Canadian Imperial Bank of Commerce Building, Broad Street, Bridgetown.

SIR: I have the honor to refer to your Note of December 31, 1984 which reads as follows:

> EXCELLENCY: I have the honour to refer to the Convention between the United States of America and Barbados for the Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Taxes on Income, signed today. The following understandings were reached between the two Governments:
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> (1) In the process of negotiating this Convention, the delegation of Barbados emphasized the necessity of including in the Convention additional provisions which would create incentives to promote flow of United States investment to Barbados.
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> The United States delegation is not able to accept such a provision at this time. I wish, however, to assure you that my Government realizes the importance your Government attaches to the increase of United States investment in Barbados. Should circumstances change, our Government would be prepared to reopen the discussions in order to reflect in this Convention provisions which would minimize the conflicts between the United States tax system and the incentives offered by the Government of Barbados to promote foreign investment in Barbados and which are consistent with the income tax policies of the United States, including tax convention policies, with respect to other developing countries.
>
> (2) During the course of the negotiation of this Convention, the delegation of Barbados sought agreement to include in the Convention a provision which would treat as charitable contributions for tax purposes, gifts by a resident of one Contracting State to a charitable organization in the other.
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>
> I have the honor to propose to you that the present Note and your reply thereto constitute the agreement of our two Governments on these understandings.

Accept Excellency, the assurances of my highest consideration.

The Government of Barbados agrees with the contents of your Note above, which together with this Note shall constitute an agreement between the Governments of Barbados and the United States of America in this matter.

Accept, Sir, the assurances of my highest consideration.

LOUIS R. TULL,
Minister of Foreign Affairs.

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